

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	No. 05 10416 MEL
MUSKET RESEARCH ASSOCIATES, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	
OVION, INC., WILLIAM S. TREMULIS,)	
and JEFFREY P. CALLISTER,)	
)	
Defendants.)	
_____)	
OVION, INC.,)	
)	
Counterclaimant,)	
)	
v.)	
)	
MUSKET RESEARCH ASSOCIATES, INC.,)	
DAVID B. MUSKET, and)	
SUE ANN LATTERMAN,)	
)	
Counterdefendants.)	
_____)	

PLAINTIFF'S OPPOSITION TO DEFENDANTS'
MOTION FOR LEAVE TO FILE REPLY

Plaintiff, Musket Research Associates, Inc. ("MRA"), hereby opposes Defendants', Ovion, Inc., William S. Tremulis, and Jeffrey P. Callister (collectively, "Ovion"), motion to file a reply brief in support of their motion for summary judgment and request that the Court deny it. The motion, which is accompanied by a 35 page reply brief, five affidavits, and over 100 pages of exhibits, violates LR 7.1, and imposes an unfair burden on both MRA and the Court. It comes just two days before the motion hearing scheduled by the Court weeks ago, leaving not enough

time for the Court to review the voluminous filings or for MRA to respond. As further grounds for opposition, MRA states as follows:

1. Ovion filed its motion for summary judgment on January 27.
2. As required by LR 7.1, MRA filed its opposition 14 days later on February 10.
3. Upon receipt of MRA's opposition, Ovion did not promptly attempt to meet and confer with MRA concerning the timing and length of a reply.
4. The following week, on February 16, the Court scheduled a motion hearing on Ovion's summary judgment motion for March 8.
5. Upon learning of the date of the motion hearing, Ovion did not promptly attempt to meet and confer with MRA concerning the timing and length of a reply.
6. Instead, on March 6, over three weeks after receiving MRA's opposition and just two days before the scheduled hearing, Ovion filed its motion for leave to file a reply along with a 35 page reply brief (15 pages over the limit imposed by LR 7.1), five additional affidavits, and over 100 pages of exhibits. Ovion never attempted to meet and confer with MRA about its intent to file this motion and the accompanying reply brief.
7. Ovion's motion violates LR 7.1, which requires that the parties meet and confer before filing any motion. By itself, this would subject Ovion to potential sanctions under LR 1.3, including a blanket denial of the motion for summary judgment.
8. Ovion's failure to comply with the rules does not appear to be mere inadvertence. Rather, Ovion appears to have filed its motion late, and in violation of LR 7.1, to prevent MRA from having sufficient time to respond to Ovion's voluminous filings before the scheduled hearing. This gamesmanship should not be permitted.

WHEREFORE, for the foregoing reasons, MRA respectfully requests that the Court deny Defendants' Motion for Leave to File Reply.

Respectfully submitted,

MUSKET RESEARCH ASSOCIATES, INC.,
DAVID B. MUSKET and
SUE ANN LATTERMANN

By their attorneys,

/s/ Brooks A. Ames
Brooks A. Ames (BBO #641192)
DLA PIPER RUDNICK GRAY CARY US LLP
33 Arch Street, 26th Floor
Boston, MA 02110
(617) 406-6000 (*telephone*)
(617) 406-6100 (*fax*)

Arthur S. Beeman (admitted pro hac vice)
Pamela K. Fulmer (admitted pro hac vice)
DLA PIPER RUDNICK GRAY CARY US LLP
153 Townsend Street, Suite 800
San Francisco, CA 94107
(415) 836-2541 (*telephone*)
(415) 836-2501 (*fax*)

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